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FISCAL IMPACT STATEMENT

LS 7151
BILL NUMBER: HB 1546

NOTE PREPARED: May 4, 2013
BILL AMENDED: Apr 26, 2013

SUBJECT: Tax Administration.

FIRST AUTHOR: Rep. Turner
FIRST SPONSOR: Sen. Hershman

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes numerous changes concerning the administration of the State Gross Retail Tax, the Adjusted Gross Income (AGI) Tax, the Commercial Vehicle Excise Tax (CVET), tax collection, penalties, and the registering and plating of certain commercial vehicles.

Sales Tax on Gasoline: It restores provisions repealed in 2012 concerning the deduction and credits provided to retail merchants with respect to prepaid Sales Tax on gasoline and special fuel.

Taxpayer Disclosure: The bill authorizes the disclosure of taxpayer information to a member of the General Assembly or an employee of the House of Representatives or the Senate if the member or employee is acting on behalf of the taxpayer and certain conditions are met.

Obsolete Provisions: It repeals obsolete CVET provisions.

Alcoholic Beverage Excise Tax Credit: The bill provides an Alcoholic Beverage Excise Tax credit for liquor or wine excise taxes paid in duplicate as a result of excise taxes being imposed both at the time the taxed goods are received and when the same goods are withdrawn from a storage facility. It requires the taxpayer to annually use an amount equal to the credit for capital expenditures to expand employment or assist in retaining employment within Indiana. It requires the Department of State Revenue (DOR) to annually verify whether the capital expenditures made by the taxpayer comply with the requirement.

Treasury Offset Program: It provides that the Office of Management and Budget may enter into an offset agreement with the Secretary of the Treasury of the United States to participate in a reciprocal Treasury Offset Program under federal law.

Disaster Recovery Exemptions: It provides certain exemptions for an out-of-state business that performs disaster emergency related work in Indiana.

Veterans' Property Tax Deductions: It specifies that a deceased veteran's surviving spouse is eligible for a veteran's property tax deduction if the deceased veteran satisfied the requirements for the deduction at the time of death and the surviving spouse owns the property at the time the deduction statement is filed. The bill specifies that the surviving spouse may provide the documentation necessary to establish that the deceased veteran qualified for the deduction at the time of death. It provides that the surviving spouse is entitled to the deduction regardless of whether the property for which the deduction is claimed was owned by the deceased veteran or the surviving spouse before the deceased veteran's death. It provides that a surviving spouse who was denied the deduction for the March 1, 2012, or March 1, 2013, assessment date is entitled to a refund of the property taxes paid with respect to the denied amount if the qualifying surviving spouse files a statement for the deduction before September 1, 2013.

Veterans' Motor Vehicle Excise Tax: It allows veterans with qualifying disabilities who do not own certain types of taxable property to claim credits against the Motor Vehicle Excise Tax (MVET). The bill allows the surviving spouses of qualified veterans and World War I veterans who do not own those types of taxable property to claim the credits. It specifies that the amount of the credit is the lesser of the claimant's excise tax liability or $70. The bill provides that the maximum number of vehicles for which credits may be claimed is two. (Current law allows such veterans to apply any excess property tax deduction amount to the MVET as a credit, but owning property is a requirement for claiming the property tax deduction and applying its excess to the excise tax.)

Jackson County LOIT: The bill extends the period during which Jackson County may impose an additional 0.1% county adjusted gross income tax (CAGIT) rate to operate and maintain a jail and a juvenile detention center until 2024. It legalizes and validates taxes collected at the additional rate in Jackson County after June 30, 2011, and before July 1, 2013.

Pulaski County LOIT :The bill extends the period during which Pulaski County may impose an additional 0.3% CAGIT rate to operate and maintain a jail and justice center until 2021. The bill legalizes and validates taxes collected at the additional rate in Pulaski County after the eight years authorized by statute had elapsed and before July 1, 2013.

Vigo County Innkeeper's Tax: It changes the maximum innkeeper's tax rate that may be imposed by the county council of Vigo County from 5% to 8%.

Certified Technology Parks: It provides that the Indiana Economic Development Corporation (IEDC) may designate not more than two new Certified Technology Parks during any state fiscal year. It also provides that the designation of a New Certified Technology Park is subject to review by the State Budget Committee and approval of the State Budget Agency.

Utility Assessment: The bill provides a procedure for a public utility to obtain a property tax credit for an overassessment of the public utility's distributable property.

Effective Date: Upon passage; July 1, 2012 (retroactive); January 1, 2013 (retroactive); July 1, 2013; January 1, 2014.

<u>Explanation of State Expenditures:</u> *Bureau of Motor Vehicles:* The Bureau of Motor Vehicles (BMV) would implement the Veterans' Motor Vehicle Excise Tax Credit. The bill's requirements are within the BMV's routine administrative functions and the BMV should be able to implement the requirements with no additional appropriations, assuming near customary agency staffing and resource levels.

Certified Technology Parks: This bill requires the IEDC to submit a proposal to the Budget Committee whenever the IEDC wants to designate a new CTP. The Budget Committee will make a recommendation to the State Budget Agency, and the State Budget Agency will make the final determination. This process is similar for the creation of other zones that may receive incremental tax revenue. The bill also limits the establishment of CTPs to two per fiscal year. In the first two years of the program (2003 and 2004), 14 CTPs were established. Since then, the IEDC has designated between one and two CTPs per year. These requirements are within the agencies' routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Department of State Revenue (DOR): The DOR will incur additional expenses to implement some provisions of the bill. However, the savings from using a secure electronic delivery service to deliver certain documents to specific taxpayers may offset some of the additional expenses. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Department of Corrections: A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately $3,234 annually, or $8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Office of Management and Budget (OMB): The OMB would incur additional expenses to administer and participate in the State Reciprocal Program of the Treasury Offset Program. The revenue collected from payment offsets and fees should cover the cost to participate in the program.

State Budget Agency (SBA): The SBA's current level of staff and resources should be sufficient to implement the provisions of the bill.

<u>Explanation of State Revenues:</u> The following provisions may have an impact on state tax revenue. The provisions are categorized based on whether the provision is: (1) likely to increase state revenue, (2) likely to have no fiscal impact, or (3) likely to decrease state revenue. The net impact of the entire bill is indeterminable.

<u>Likely to Increase State Revenue</u> -

Automated Sales Suppression Devices and Phantom-ware: This bill makes the sale, purchase, installation, use or possession of an automated sales suppression device or phantom-ware a Class C felony. These devices are used to eliminate or produce false sales receipts, transaction reports, and documentation. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C felony is $10,000. However, any additional revenues would likely be small.

Compliance Requirements for Alcohol & Tobacco Licenses - The bill requires that a merchant must be current or less than 30 days delinquent on Sales Tax and withholding obligations before any type of permit or license will be issued, renewed, or transferred. An applicant is not considered delinquent if they file a proper protest. If a protest is filed, the taxpayer will be considered delinquent after the taxpayer's appeal period expires or upon final ruling by the tax court. This will likely increase state collections by an indeterminable amount as taxpayers become compliant in order to receive a permit or license. This provision goes into effect on July 1, 2013.

Increase Penalty for Conducting Retail Sales w/o a Registered Retail Merchant Certificate (RRMC) - The bill changes the penalty for conducting retail transactions without a RRMC from a Class B misdemeanor to a Class A misdemeanor. Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor rather than for a Class B misdemeanor. The maximum fine for a Class B misdemeanor is $1,000, while the maximum fine for a Class A misdemeanor is $5,000. However, any additional revenue is likely to be small. Court fees would remain unchanged. This provision goes into effect on July 1, 2013.

Negate Tax Warrants - The bill states that filing a return without the proper remittance amount identified on the return does not fulfill the conditions of a tax warrant if the warrant was already issued. This change will likely increase tax collections by an indeterminable amount beginning in July 1, 2013.

Renewal of RRMCs - The DOR is required to notify a registered retail merchant within 60 days before their RRMC renewal date if they have outstanding withholding or Sales Tax liabilities. The DOR will not renew the RRMC unless the merchant pays the liabilities. Under the current law, once the merchant fulfills their obligation, their RRMC will be renewed for two years. This bill reduces the renewal time to one year, so the taxpayer will undergo a compliance check again the following year. The shortened time between compliance checks may aid in the collection of back taxes and increase state revenue. This change is effective beginning January 1, 2014.

Treasury Offset Program - State Reciprocal Program: This bill allows the OMB to enter into an agreement with the United States Department of the Treasury to participate in the State Reciprocal Program of the Treasury Offset Program (TOP). TOP is a centralized offset process that intercepts federal and state payments to payees who owe delinquent debts to federal agencies and states participating in the reciprocal program. This bill allows the state to submit both tax and non-tax debts to the U.S. Treasury and have those debts offset certain federal non-tax payments. In return, the U.S. Treasury will submit non-tax debts to Indiana to offset state payments. The bill defines state payments as tax refunds, payments to vendors or contractors, and expense reimbursements to state employees. It does not include salary, wages, pension payments, or any other payment the OMB determines will have an impact on the health or welfare of Indiana residents.

The bill also allows the OMB to impose a reasonable fee on persons who have debts offset by this program. The fee revenue is to be used to offset the costs of administering the program and for the costs of other revenue generation and cost savings initiatives.

Participation in this program will increase state revenue by an indeterminable amount.

<u>*Likely to Have No Fiscal Impact*</u> -

Commercial Vehicle Plates: This bill makes license plates issued to commercial vehicles with a gross vehicle weight rating exceeding 26,000 lbs permanently valid if the owner has at least 25 registered commercial vehicles. Although the license plate would never expire, the annual registration fees and annual CVET taxes would still have to be paid. This change will likely have no fiscal impact.

Include Accommodations in Sales Tax-Exempt Items: The bill adds accommodations to the list of Sales Tax-exempt items that can be purchased by state and local governments or purchased by nonprofit entities for fund-raising purposes. This addition is a clarification of the current statutory interpretation by the DOR. The DOR states in an Information Bulletin that, "[t]he State of Indiana and its local governments are not subject to sales or use tax on purchases to be used primarily to carry out a governmental function." DOR makes a similar interpretation in another Information Bulletin for the purchase of accommodations by a nonprofit entity for fund-raising purposes. This change will likely have no fiscal impact.

Sales Tax on Gasoline: The bill restores provisions inadvertently repealed in 2012 regarding Sales Tax deductions and credits offered to retail merchants for prepayments of Sales Tax on gasoline and special fuel. The DOR continued to administer the Sales Tax deductions and credits relating to gasoline and special fuel as under the repealed provisions. This provision should have no fiscal impact.

Withholding Remittance Due Dates: The bill requires employers to report and remit income taxes withheld every month if the employer withheld over $1,000 in the previous calendar year. The DOR may exempt employers from reporting and remitting withholding on a monthly basis if the employer withheld $1,000 or less in the previous calendar year. The current threshold for mandatory monthly filing of withholding occurs when the average monthly amount of taxes to be withheld by the employer in the previous year is less than $1,000. This will increase the frequency of withholding taxes received by the state, but it is unlikely to have a fiscal impact. The provision is retroactive to January 1, 2013.

<u>Likely to Decrease State Revenue</u> -

Alcoholic Beverage Excise Tax Credit: The bill provides an Alcoholic Beverage Tax credit for 50% of the liquor or wine excise taxes paid in duplicate (both at the time the goods are received and when they are withdrawn from a storage facility). This provision could reduce revenue by about $3.5 M. The amount of credits claimed each month is limited to 10% of the taxpayer's monthly Alcoholic Beverage Tax liability.

Alcoholic Beverage Taxes are deposited in varying amounts in the following funds: state General Fund, Post War Construction Fund, Enforcement and Administration Fund, Pension Relief Fund, Addiction Services Fund, and Wine Grape Market Development Fund.

Disaster Recovery Exemptions: This bill provides that out-of-state businesses and employees would be exempt from certain state taxes as long as their activities are directly contributing to the recovery of a declared disaster. The revenue loss is indeterminable and would depend on the frequency of natural disasters, duration of the disaster recovery period, and the amount of assistance provided by out-of-state response teams. The exemption goes into effect on July 1, 2013.

A qualifying out-of-state business would be exempt from state income taxes, state fees, licensing requirements, worker's compensation insurance payments, and employer contributions to unemployment compensation. A qualified employee would be exempt from the state income tax, withholding tax, any state fees, and licensing requirements. The exemptions are in effect from 10 days prior to the disaster declaration to 60 days after the disaster emergency ends. The bill defines disaster emergency related work as repairing, renovating, installing, building, or rendering services related to the infrastructure that is damaged by an event that caused the disaster to be declared.

Reduce NSF Penalty: Under current law, the DOR will issue a 10% penalty fee for a NSF payment and request the taxpayer provide the necessary funds. The taxpayer is given 10 days to provide the necessary funds. If the taxpayer fails to comply within the 10-day period, the penalty is increased to 100% of the value of the payment. This bill reduces the second fee from 100% to 30% of the value of the payment. This will likely reduce state revenue by an indeterminable amount beginning after January 1, 2014.

Veterans' Motor Vehicle Excise Tax: State revenues could be reduced by as much as $1.4 M per year beginning in FY 2015. Revenues in FY 2014 could be reduced by half that amount. MVET revenue captured by the state is deposited into the state General Fund.

Waive Late Penalties for Partnerships and Corporations: This bill would eliminate the late filing and remittance penalties for the Corporate Adjusted Gross Income Tax under certain conditions. The late penalty would be waived if the entity paid at least 80% of the withholding tax for the current year or 100% of the withholding tax from the prior year before the 15th day of the 4th month after the end of the entity's taxable year. In tax year 2011, the state collected nearly $6 M in late filing penalties from the Corporate AGI Tax. This provision will likely reduce state revenue by an indeterminable amount. This provision goes into effect after July 1, 2013.

<u>Explanation of Local Expenditures:</u> *Penalty Provisions:* The maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. In the case of a Class C felony, if more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

<u>Explanation of Local Revenues:</u> *Jackson County LOIT:* This bill allows Jackson County to continue to impose a CAGIT rate of 0.1% through December 31, 2023, for the operation and maintenance of correctional facilities. It is estimated that the additional 0.1% CAGIT rate in Jackson County could potentially generate about $750,000 in CY 2014 and $770,000 in CY 2015.

Pulaski County LOIT: This bill allows Pulaski County to continue to impose an additional CAGIT rate of 0.3% through December 31, 2020, for the operation and maintenance of correctional facilities. It is estimated that the additional 0.3% CAGIT rate in Pulaski County could potentially generate about $850,000 in CY 2014 and $870,000 in CY 2015.

Vigo County Innkeeper's Tax: The bill allows Vigo County to increase its Innkeeper's Tax rate from 5% up to 8%. This provision could increase revenue to the Vigo County Convention and Visitor Promotion Fund by approximately $0.8 M in 2014 and 2015. If the county increases the rate in July 2013, revenue could also increase by a smaller amount in 2013. The table below shows the estimated revenue impact, assuming Vigo County increases the Innkeeper's Tax rate to 8% in 2013.

CY	Revenue at 5% Rate	Revenue at 8% Rate	Estimated Impact
2013	$1,264,180	$1,453,807	$189,627
2014	1,286,288	2,058,060	771,773
2015	1,308,783	2,094,052	785,270

The revenue projections above are estimated based on recent taxable receipts. Vigo County currently levies the Innkeeper's Tax at a rate of 5% of gross lodging income. The rate has not changed since state FY 2005. In FY 2012, Vigo County collected approximately $1.2 M in Innkeeper's Tax revenue. Over the past five years, collections have remained relatively stable.

Disaster Recovery Exemptions: This bill exempts out-of-state businesses and employees from local income taxes, licensing requirements, and local fees while performing disaster recovery related work during a disaster period. The local revenue implications are indeterminable.

Increased Penalty for Conducting Retail Sales w/o a Registered Retail Merchant Certificate (RRMC): If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

Veterans' Motor Vehicle Excise Tax: Beginning July 1, 2013, this bill would grant MVET credits to disabled veterans and surviving spouses who do not own qualifying property if they meet all other qualifications. The credit would be limited to $70 each on up to two vehicles. Local revenue from the MVET could be reduced by as much as $2.9 M per year beginning in CY 2014. Local excise tax revenues are distributed to local civil taxing units and school corporations.

Veterans' Property Tax Deductions: *Summary:* This bill could result in an increase in the number of disabled veteran property tax deductions claimed by surviving spouses. The number and value of the additional deductions is not known. In general, the additional deductions would reduce the assessed value (AV) tax base which would lead to increased tax rates. The higher tax rates would cause a tax shift from the taxpayers receiving the deductions to all other taxpayers. In addition, the increased tax rates would cause circuit breaker credits in some areas to rise. Property tax collections for local civil taxing units and school corporations would decline.

In addition, CY 2013 property tax collections could decline because of any refunds allowed under this bill. Property tax refunds reduce current year tax collections.

Veterans' Property Tax Deductions: *Background*: Under current law, certain disabled veterans or their surviving spouses are eligible for a property tax deduction against any real or personal property that they may own. There are two disabled veteran deductions.

(1) Veterans with wartime service and a service-connected disability of at least 10% are entitled to a property tax deduction of $24,960 on their real or personal property. There are no qualifications on AV.

(2) Veterans are entitled to a property tax deduction of $12,480 on their real or personal property if the veteran is either totally disabled or is at least age 62 with a disability of 10% or more. The disability need not be service-connected nor does the service need to be wartime service. In order to qualify, the AV of the property

must be less than $143,160.

Veterans who qualify may receive both disabled veteran deductions. Properties that are co-owned by more than one disabled veteran are subject to multiple deductions.

In both cases, a surviving spouse is eligible for the deduction if the veteran "would qualify for the deduction if the individual were alive."

According to the Department of Local Government Finance (DLGF), the surviving spouse is not entitled to the deduction if the disabled veteran's name was not on the deed to the property.

Beginning with the March 1, 2012, assessment date, this bill would permit the surviving spouse to claim the deduction if the veteran met all qualifications other than ownership of the property. The deduction would apply to a property that the surviving spouse owns or purchases at any time.

If a deduction was denied for the 2012 or 2013 assessment date, a qualifying surviving spouse may apply for the deduction by August 31, 2013. The county auditor would be required to issue a refund for taxes paid on the deducted AV within 30 days after the statement is filed.

Utility Assessment: Under this provision, the DLGF would accept amended utility property tax returns for taxes payable in 2013 that were filed by a telephone, telegraph, or cable company by April 15, 2013. The DLGF would certify the amended value to each county with subject property. The amended value would be used to calculate a credit in each taxing district where the property is located. No refund would be paid, but the credits would be applied to the next six property tax installments over the next three years.

According to the DLGF, three amended returns were filed by three related utility companies. Collectively, the companies originally reported $111.4 M in AV. The amended AV is $29.6 M, or a reduction of $81.8 M in AV. The total credit will amount to approximately $2 M and would affect 376 taxing districts in 59 counties.

State Agencies Affected: Department of State Revenue; State Budget Agency; Department of Correction Indiana Economic Development Corporation; Bureau of Motor Vehicles; Office of Management and Budget; Department of Local Government Finance.

Local Agencies Affected: Trial courts; local law enforcement agencies; Counties; County auditors; Local civil taxing units and school corporations.

Information Sources: Revenue Technical Committee, *State Revenue Forecast, Fiscal Year 2015,* December 17, 2012; U.S. Census Bureau, 2007 Economic Census; Bureau of Economic Analysis; LSA Income Tax Database; DOR, *Information Bulletin #4: Sales to and by Indiana State and Local Governments, the United States Government, it Agencies, and Federal Instrumentalities,* September 2011; DOR, *Information Bulletin #10: Application of Sales Tax to Nonprofit Organizations*, April 2012; LSA, *LOIT Distributions Amounts at a 1% Rate,* November 1, 2012; Department of the Treasury, *Treasury Offset Program - State Reciprocal Program Overview;* IDVA Annual Conference Presentation, Department of Local Government Finance (DLGF), www.in.gov/dlgf/files/Veterans_Presentation.pdf.;Elizabeth Murphy, Bureau of Motor Vehicles, Tom Applegate, Indiana Department of Veteran Affairs; LSA parcel-level property tax database; LSA, *Indiana's Geographically Targeted Development Programs: Certified Technology Parks,* September 8, 2012.

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